

E-Filed 9/22/2011

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IVAN VERNORD CLEVELAND, et al.,

Plaintiffs,

v.

Ben Curry, Warden, et al.,

Defendants.

Case Number 5:07-cv-02809-JF

ORDER DENYING MOTION FOR
INJUNCTIVE RELIEF

[re: dkt entry 73]

Plaintiff Ivan Cleveland (“Cleveland”), who is represented by counsel, submitted a motion for preliminary injunction (dkt entry 73) that he appears to have prepared himself. The motion requests that the Court enjoin Defendants from giving him a cell-mate rather than permitting him to remain in a single cell.

A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 129 S.Ct. 365, 376 (2008). “The proper legal standard for preliminary injunctive relief requires a party to demonstrate [1] ‘that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.’” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter*, 129 S. Ct. at 374)). The issuance of a

preliminary injunction is committed to the discretion of the District Court. *Indep. Living Ctr. of Southern Cal., Inc. v. Maxwell-Jolly*, 572 F.3d 644, 651 (9th Cir. 2009).

Cleveland fails to meet this standard. He has failed to demonstrate that he is likely to prevail on any claim relating to whether he is given a cell-mate, and he has failed to establish that he would suffer irreparable harm from having a cell-mate. Accordingly, the motion is DENIED.

IT IS SO ORDERED.

DATED: 9/22/2011


JEREMY FOGEL
United States District Judge